IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 21029 of 2004

Between:

1 Shafath Ahmed Khan, S/o.Ibrahim, Khan
High Court of Andhra Pradesh, R/o.D.No.10-3-14/B/4/2,
Opp.Safdarai School, Humayun Nagar, Hyderabad.
2 Mustaq Ahmed Khan, S/o.Late Ibrahim Khan,
rep.by General Power of Attorney Holder Shafath Ahmed Khan,

S/o.Ibrahim Khan, High Court of Andhra Pradesh,
R/o.D.No. 10-3-14/B/4/2, Opp.Safdarai School, Humayan Nagar,

Hyderabad-28.

... PETITIONERS

AND

1 The govt. of Andhra Pradesh, rep.by its Secretary, Municipal Administration,
Secretariat Buildings, Hyderabad.
2 The Kurnool Municipal Corporation, rep.by its Commissioner, Kurnool.
3 Mrs. Ramiza Bee, W/o.Not Known,
R/o.D.No.56-89-R, plot No.21, Kanderi Street,
Fort, Kurnool.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus by declaring the action of the 2nd respondent in not taking any action against the 3rd respondent on the representation given by the petitioners as illegal,

arbitrary and contrary to the mandatory provisions of Hyderabad Municipal corporation Act and consequently direct the 2nd respondent to take action against the 3rd respondent in accordance with law.

Counsel for the Petitioner: MR.C.PRAKASH REDDY

Counsel for the Respondent 1: GP FOR MUNCIPAL ADMN. & URBAN DEV.

Counsel for Respondent NO.2: A. Sreeramulu (S.C. for M.C.)

The Court, at the admission stage, made the following:

ORDER:

If the petitioners' easementary rights are affected by third respondent by proceeding with the construction, proper remedy available for the petitioners is to approach the competent Civil Court to preserve the easementary rights accrued in their favour. Petitioners said to have made a representation dated 25-10-2004 to the respondents about the construction, which is said to have been commenced by the third respondent without obtaining necessary permission.

2. On receipt of such representation, if any, it is for the respondents to consider the same and pass appropriate orders after due notice to the parties.

The writ petition is accordingly disposed of.

_____

A. **GOPAL REDDY, J**

November 17, 2004

MRR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:

1 The Secretary, Municipal Administration, Secretariat Buildings, Hyderabad.
2 The Kurnool Municipal Corporation, rep.by its Commissioner, Kurnool.
3 Two C.C. s to the G.P. for Municipal Administration and Urban Dev., High

Court Buildings, Hyderabad (OUT)

4 Two C.D. Copies.